

# STATE OF ALASKA

## **DEPARTMENT OF NATURAL RESOURCES OFFICE OF THE PROJECT MANAGEMENT & PERMITTING**

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February 1, 2007

Ruth McCoard  
Bureau of Land Management  
Anchorage Field Office  
6881 Abbott Loop Road  
Anchorage, AK 99507

**RE: State Review Comments  
DRAFT Bay Resource Management Plan and Environmental Impact Statement,**

Dear Ms. McCoard:

The State of Alaska has reviewed the Bureau of Land Management (BLM), Bay Resource Management Plan/Environmental Impact Statement (RMP/EIS). We appreciate the opportunity to offer comments and suggestions in support of the development of this plan pursuant to 43 CFR 1610.3-1. This letter represents the consolidated comments of state agencies.

We recognize the difficulty inherent in developing a land use decision-making document designed to provide overall guidance in an area where land status is in flux due to unresolved State and Native land selections. We appreciate BLM's efforts to coordinate with the State throughout the planning process. Through consistent, close coordination with the State, many potential issues have been eliminated or resolved during development of this plan. Furthermore, BLM's efforts to coordinate proposed management strategies with those on adjacent state lands as described in state planning documents will help to create predictable management schemes for the public now, and following conveyance of selected lands. The State supports multiple-use management strategies designed to promote wise stewardship of resources balanced with a clear goal of enhancing opportunities for resource development and is pleased to see BLM's stated commitment to multiple use and sustained yield as set forth in FLPMA. We hope that the following comments and suggestions will be useful as BLM prepares the final RMP/EIS.

In general we find that the Draft RMP/EIS is well done. The planning team has consistently worked to provide concise background information to support the recommendations and alternatives presented. The maps are presented at an appropriate scale and level of detail that enhances the reader's understanding of the topics discussed. The following general and page specific comments are intended to assist BLM in the preparation of the final document. We did not review the document for grammatical and typographical errors and any that we noticed during our reading of the document and will be conveyed to the project manager at a later date.

*"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."*

**GENERAL COMMENTS:****Withdrawal Review**

During scoping, the State of Alaska requested that existing withdrawals be reviewed and those that are no longer needed for the purpose for which they were withdrawn be revoked. Of particular concern to the State are the Alaska Native Claims Settlement Act (ANCSA) 17 (d)(1) withdrawals.

The (d)(1) withdrawals were made by the Secretary of the Interior in the 1970s under the authority of Section 17(d)(1) of ANCSA. Their purpose was to maintain the status quo of these lands in order to allow time to complete inventories and assess resources for consideration in land management objectives.<sup>1</sup> The State agrees with BLM that the Resource Management Planning process provides a more contemporary mechanism for developing land management objectives and strategies thus obviating the need for continued withdrawals. These (d)(1) withdrawals are no longer appropriate for two reasons: 1) most were made to enable ANCSA selections that have long since been completed, and 2) they supported the study of federal lands for possible designation as conservation system units, an issue resolved by Congress with the Alaska National Interest Lands Conservation Act (ANILCA).

The State is pleased to see that BLM has conducted a review of all existing withdrawals, has clearly explained the purpose for those withdrawals, and is now recommending revocation of the ANCSA 17 (d)(1) withdrawals in the Bay planning area. Where continuing protection of resource values is required appropriate management strategies are recommended. We concur with this approach.

**Water Resources**

We request that BLM consider additional in-depth, specific discussion of water resources in the area. A complete inventory of water bodies would enhance the discussion on water resources as would a thorough analysis of the impact on water quality anticipated from the proposed alternatives and current resource uses. This use analysis should include water quality impacts associated with exploration and development of natural resources, infrastructure development and use of off highway vehicles (OHVs).

**EXECUTIVE SUMMARY*****Page V, Page VI, Alternative C and Alternative D***

Please consider adding “water quality” to this description as indicated below in italics as an additional benefit of the OHV limited designation is protected water quality.

“All BLM- managed lands within the planning area would have a “limited” OHV designation, allowing for limitations to be placed on OHV use to protect habitat, *water quality*, soil and vegetation resources, and/or recreation experiences.”

**CHAPTER I - INTRODUCTION****Page 1-25**

Please consider adding the Wood-Tikchik State Park Management Plan, ADNCR, October 2002 to the list of related planning documents.

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<sup>1</sup> US Dept. of Interior, Stakeholder Letter, Regarding review of (d)(1) withdrawals June 15, 2005.

**CHAPTER II - ALTERNATIVES****Page 2-7 b) Soil, Water and Air**

The first page of the Bay Area RMP Executive Summary, item C. Decisions to be Made, on page iii indicates that the RMP will:

- Establish resource goals, objectives, and desired future conditions.
- Describe actions to achieve goals, objectives, and desired future conditions.

Although goals and management decisions related to water quality are included on page 2-7, the following goals for water resources identified in the Kobuk - Seward Peninsula Draft RMP are more concise and cover key non-point source water quality concerns regarding stream banks, wetland vegetation and prevention of soil erosion.

- “Air and Water quality should meet or exceed local, State, and Federal requirements.”
- “Ensure that watersheds are in or are making significant progress toward a properly functioning physical conditions that includes stream banks, wetlands and water quality.”
- “Minimize negative impacts to soils and wetland vegetation and prevent soil erosion.”

In addition, the actions to achieve the goals, objectives and desired future conditions are not fully articulated in the Bay Area plan. Further discussion of actions would be beneficial.

**Page 2-7, b) Soil Water, and Air, (1) Goals, and (3) Management Common to All Action Alternatives (B, C, and D)**

These sections generally describe goals and management of soil, water and air. No resources in the Bay Area are specifically identified. The goals and “Management Common to All Actions” sections intertwine the discussion of water resources with air and soil. Since the desired outcomes of this section are tied to the standards and goals of the Clean Water Act, mixing these three resources does not provide an effective discussion. A separate discussion of water resources would be beneficial and provide a better foundation for management decisions.

The major watersheds and surface water bodies in the Bay Area should be discussed separately from air and soil. Specifically identifying watersheds that may need special protection from the standpoint of human health concerns, ecosystem health, or other public concern would enhance this section of the RMP.

Additionally, please consider adding a reference to a Quality Assurance Project Plan in the following goal.

- Management Excellence – promote program financial efficiency and improve data quality and availability *through a Quality Assurance Project Plan.*

**Page 2-7 (3) Management common to All Action Alternatives (B, C and D)****(a) “Inventory and Monitoring**

Develop a water quality sampling protocol step down plan and determine baseline water quality values in areas having critical aquatic habitats or have potential for significant impacts due to permitted activities. Monitor for significant alterations to water quality value and water flow in accordance with State and Federal regulations.”

This paragraph indicates that the BLM will develop a water quality sampling protocol to determine baseline water quality values for areas with critical aquatic habitats or have the potential for significant impacts from permitted activities. A Quality Assurance Project Plan

(QAPP) that meets applicable State and or EPA requirements listed on the following web sites should be developed to ensure the quality of collected data:

<http://www.dec.state.ak.us/water/wqsar/pdfs/qappelements.pdf>

EPA Requirements for Quality Assurance Project Plans are addressed at:

<http://www.epa.gov/r10earth/offices/oea/epaqar5.pdf>

To clarify, a Quality Assurance Project Plan describes the activities of an environmental data operations project involved with the acquisition of environmental information and describes the necessary QA/QC procedures and other technical activities to be implemented for a specific project.

#### **Page 2-7, (a) Inventory and Monitoring**

The inventory of water resources in the Bay Area is minimally addressed in this section. Please refer to 4) Water Resources on pages 3-15- 3-19 of the Kobuk – Seward Peninsula Draft RMP/EIS. This discussion of water resources along with Table 3-1 Water Resources Data for Selected Rivers in the Planning Area (2004-05) includes specific information about water resources that will effectively guide management decisions.

In addition, please consider including the following inventory and monitoring item.

- Assess impacts from OHV trails especially in high use areas where riparian and wetland resources are at risk.

#### **Page 2-20. Table 2.4, Visual Resource Management – Summary of Alternatives**

It would be useful, if possible, to include in Table 2.4 the percentages of land that would be Class III and Class IV for each Alternative, for comparison.

#### **Page 2-30, Table 2.7, Fluid Leasable Minerals – Summary of Alternatives**

We found this table to be well organized and clear in summarizing the proposals for each alternative. However, two issues need attention. Please check the acreage figures for Alternative C in Areas Open to Fluid Mineral Leasing Subject to Standard Lease Terms. It is unclear how 1,176,629 acres can be State-or Native-selected in alternatives B and D but no acreage is selected in alternative C. Also, please include the additional seasonal restrictions for migratory birds, shorebirds, and raptors in the table consistent with the text. Often a reader is drawn to a table and fails to fully read the corresponding text. These seasonal restrictions are worth noting in the table.

#### **Page 2-35, In Table 2.8, Locatable Minerals, Alternative C,**

To further clarify, we recommend moving the discussion regarding ANCSA 17(d)(1) withdrawals for these river segments, to immediately follow the Exceptions associated with the proposed wild river segments it references.

#### **Page 2-40, (5) Alternative C, (6) Alternative D**

We recommend that BLM add “water quality” as indicated in italics below since an additional benefit of the limited designation will be additional protection of water quality,

“Under Alternative C, all lands would be designated as limited to OHV use, allowing for limitations on OHV activities to protect habitat, *water quality*, soil and vegetation, cultural resources, and recreation experiences.”

Alternative D;

“All lands would be designated as limited to OHV use, allowing for limitations on OHV activities to protect habitat, *water quality*, soil and vegetation, cultural resources, and recreation experiences.”

**Page 2-45, (d) Recreation and Public Purposes (RP&P) Act Sales, 5<sup>th</sup> bullet**

If the land proposed for RP&P sale is first leased to the potential buyer pending the completion of construction, please clarify what would become of the lease income (i.e., placed in escrow for the buyer, subtracted from the purchase price, etc.). If retained by BLM, the financial burden of leasing in addition to construction and purchase may be excessive.

**Page 2-49, (6) Alternative D, also affecting [5] Alternative C, Table 2.11 & 2-52, 2<sup>nd</sup> bullet and Table 2.15, page 2-110.**

The Bristol Bay Area Plan for State Lands (BBAP, 2005) contains a map on page 2-37 that illustrates the abundance of mineral resources that lie to both the east and south of the proposed Carter Spit ACEC. By categorizing the ACEC as an avoidance area for Land Use Authorizations, opportunities for mineral resource development on lands containing these prospects would be unduly hindered, primarily by affecting access. We request elaboration on what is meant by the term “avoidance area.” We appreciate new language that was applied in Chapter 4 (pages 4-79 and 4-80) subsequent to our previous comments, but request additional clarification that access proposals will be considered within the ACEC context and not entirely excluded.

We also request that **Table 2.15 on Page 2-110**, Alternative D, for Lands and Realty be changed so that it is consistent with Table 2.11. Table 2.15 currently states that no Land Use Authorizations will be considered in the Carter Spit ACEC area, whereas the intent and the previous Realty summary table indicate that the Carter Spit ACEC is an “avoidance area.”

**Page 2-51 through 2-52, Special Designations**

Please reference Appendix A as containing pertinent information regarding the rationale for designation. In addition, we recognize the difficulty inherent in developing a land use plan where land status is in flux due to unresolved land selections. We appreciate BLM’s desire to provide for the inclusion of selected lands with equally important values that may ultimately remain in long term BLM ownership in a proposed designation. Although the plan generally describes these lands for the Carter Spit ACEC, the plan is unclear as to how such lands would be included in the ACEC following resolution of selections. Please include a section explaining how this will be accomplished. Is an amendment to the RMP anticipated?

**Table 2.13, Required Operating Procedures****Page 2-62, ROP Water-5b**

We request that Water-5b be modified to provide consideration for spill prevention and control measures as well as terrain constraints that may be encountered in specific areas along a stream.

**Page 2-64, ROP FW-1a**

While we appreciate the edit including ADNR in this ROP, please consider rewording the first portion of this statement as follows:

“*The Alaska Departments of Fish and Game and Natural Resources* should be consulted.....”

**Page 2-65, ROP FW-3b, 3c**

Please review this ROP. We found it to be confusing and possibly unnecessarily restrictive. It appears that the text “ROP FW-3c” (not bolded) could be deleted.

Additionally the fourth line identifies those uses that would not be permitted unless a field evaluation has been conducted by qualified personnel. We assume that BLM’s intent is that these individuals can then advise the AO that certain activities are permissible or that accommodations in the permit can be made based upon the actual location of the caribou.

Clarification of BLM's intent and a practical review of the activities prohibited would be beneficial.

**Page 2-74, ROP Rec-1m**

Please clarify that commercial guides are also required to register with the Department of Natural Resources.

**Oil and Gas Leasing Stipulations**

**Page 2-81, Stip-10**

We assume this should be corrected to read: "...provide a 300 foot buffer from *drilling operations* on BLM-administered lands..."

**Page 2-89, Summary table Fluid Leasable Minerals Alternative B, Areas Open to Fluid Mineral Leasing Subject to Standard Lease Terms.**

We recommend removing the paragraph in alternative B referring to "Existing withdrawals of 3,999 acres would remain w/drawn from fluid mineral leasing." from this section. This information is covered in the section that describes areas Closed to Fluid Mineral leasing and the duplication is confusing.

***CHAPTER III – AFFECTED ENVIRONMENT***

We appreciate the changes made to Chapter Three. They have made it more complete and accurate.

**Page 3-197, ROS Class Setting:**

It may be helpful to include common examples for both Semi-primitive non-motorized and Primitive as well as the Semi-primitive motorized.

**Page 3-201, Travel Management**

We appreciate the inclusion of a source citation for language in the R.S. 2477 and 17(b) Easement sections (page 3-201).

**Page 3-211, OHVs, 5<sup>th</sup> full paragraph**

This paragraph inappropriately combines Sections 811 and 1110(a) of the Alaska National Interest Lands Conservation Act (ANILCA, P.L. 96-487) which may confuse the reader trying to determine which provisions apply to Bureau lands. It is important that the Bureau develop the plan in accordance with the appropriate ANILCA provisions for Conservation System Units where applicable and on all public lands in Alaska.

Section 811 of ANILCA states that:

“the Secretary shall permit on the **public lands** appropriate use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purposes by local residents, subject to reasonable regulation . . . “  
(emphasis added)

ANILCA Section 1110(a) mandates that:

“ . . . the Secretary shall permit, on **conservation system units**, national recreation areas, and national conservation areas, and those public lands designated as wilderness study, the use of snowmachines (during periods of adequate snow cover . . . ), motorboats, airplanes, and non-motorized surface transportation methods for traditional activities . . . and for travel to and from villages or homesites. Such use shall be subject to reasonable

regulations by the Secretary to protect the natural and other values of the conservation system units . . . and shall not be prohibited unless, after notice and hearing in the vicinity of the affected unit or area, the Secretary finds that such use is detrimental to the resource values of the unit or area.” (emphasis added)

We recommend the Bureau cite these provisions separately to avoid confusion.

**Page 3-213 – 3-287 Lands and Realty**

We find the Lands and Realty section in Chapter 3 to be very well done, with an appropriate amount of detail to describe the withdrawal, easement, or permit and extensive mapping which is very helpful and well done. However, we suggest that in the final draft BLM review the location of maps relative to the corresponding text and perhaps make some adjustments to the location and titles of the included maps.

**Page 3-311, Table 3.42.**

This table presents subsistence harvest data derived from the ADF&G Division of Subsistence computerized database, which is now the Community Subsistence Information System (CSIS), and indicates that data are not available for Togiak and Twin Hills. Subsistence harvest data for these two communities are in the CSIS and in the following report:

Coiley-Kenner, Philippa, Theodore Kreig, Molly Chythlook, and Gretchen Jennings, 2003. Wild Resource Harvests and Uses by Residents of Manokotak, Togiak, and Twin Hills, 1999/2000. Alaska Department of Fish and Game, Division of Subsistence Technical Paper No. 212.

Both the CSIS and this technical paper can be accessed on the Division of Subsistence website.

Additionally, updated subsistence harvest data for the following communities appears in Division of Subsistence Technical Paper 302, which will soon be published: Iliamna, Newhalen, Nondalton, Pedro Bay, and Port Alsworth. These data can be obtained from the Division of Subsistence office in Anchorage.

***CHAPTER IV – ENVIRONMENTAL CONSEQUENCES***

**Page 4-4 (3) Water Resources**

- “Demand for clean water will increase should recreation use, population, commercial development, or infrastructure development increase. Water quality requirements would be achieved through the use of the Required Operating Procedures (ROPs).”

This section identifies Required Operating Procedures as the method for achieving water quality requirements. Other sections of the RMP however also identify stipulations, mitigation measures, area wide use restrictions or other protective measures and a step down plan to achieve water quality requirements. Please clarify how all of these methods will be used to protect water quality.

We suggest including a section in Chapter II (**page 2-58**) following the discussion of Required Operation Procedures, Stipulations, and Standard Lease Terms that explains when mitigation measures, use restrictions, and other conditions can be attached to a project, permit, or other BLM authorized activity.

**Page 4-10, Recreation, 1<sup>st</sup> bullet**

We request the Bureau revise the text in this bullet and elsewhere in the document from “sport hunting” to just “hunting.” The State subsistence law currently includes all residents as

subsistence users in areas where State regulation authorizes subsistence uses. Federal agencies frequently mischaracterize hunters who are not federally qualified subsistence users to be “sport hunters.” Non-federally qualified subsistence users often qualify as subsistence users under the State regulations. It is also important to clarify that State regulations only classify hunters as being “resident” or “non-resident” hunters. The State no longer authorizes “sport hunting.”

**Page 4-11, Travel Management, Bullets 2 and 4**

The second bullet mentions increases in OHV technology allowing off-road users to access previously inaccessible parcels. It may also be worth noting that increases in available technology can also contribute to reductions in potential resource impairment.

Please review the fourth bullet and clarify BLM’s intent with this assumption. We understand that BLM is required to designate areas as open, limited or closed to OHV use and have found the limited designation to be consistent with the State’s Generally Allowed Uses. However, the second sentence in this bullet could create confusion for readers. As written, the reader could interpret the wording of this bullet to mean that use is being restricted to a specific type of user. Since the plan does not introduce various “classes” of OHV users in the document and there are no restrictions in the plan that limit OHV use by user type, we recommend BLM revise the bullet to reflect actual intent.

**Page 4-13, 5<sup>th</sup> full bullet, 2<sup>nd</sup> to last sub-bullet**

We appreciate the additional information given to elaborate on this bullet. However, we still recommend using the analogous bulleted list given in Chapter Two (pages 48-49), which addresses this issue with the language “where landowners have made a request” instead of “where landowners support the activity allowed by the easement.” This will avoid the impression that the preferences of the adjacent landowner in any way supersedes the intent of 17(b) easements, which is to maintain the right of access to public lands and waters. It will also resolve the need for the explanation in parens, while still addressing similar priority situations

**Page 4-45, Effects to Wildlife from Recreation Management (Common to all)**

It is not clear whether “enhanced or excessive harvest” is referring to more game being legally taken, which does not constitute an impact, or taking game beyond what is legally allowed, which constitutes an impact from illegal activity, which would more appropriately be categorized as an enforcement issue. The State Board of Game and ADF&G regularly monitor harvested populations to insure against “excessive” harvest.

**Page 4-78, Summary of Effects to Visual Resource Management (Alternative A)**

**Page 4-79, Summary of Effects to Visual Resource Management (Alternative B)**

**Page 4-80, Summary of Effects to Visual Resource Management of Alternative C**

**Page 4-81, Effects of Visual Resource Management Summary of Alternative D**

This is an extremely handy inclusion and we recommend that a similar summary follow the effects evaluations for each Alternative in each resource management category, not just Visual Resource Management. The summary usefully goes over the main points of each effects evaluation and assists the reader with framing the overall effects on that resource for each Alternative.

**Page 4-78, Effects to Visual Resource Management from Leasable, Locatable, and Saleable Minerals (Alternative B)**

The first sentence speaks to the localized adverse effects to OHV use through Stips and ROPs but it appears to be out of context. Please review.



**Page 4-86, Effects to Leasable Minerals for Alternative A**

The premise in the concluding sentence that if no oil and gas exploration and/or development occurs, the resources are unavailable to future generations seems illogical. The resources would in fact remain in the ground, unused, and be available for future development and use. However, they would not be available for consumption in the near term.

**Page 4-86, Effects to Leasable Minerals for Alternative C**

Please review the first sentence and confirm or correct the number of acres and corresponding percentage of acres where withdrawals would be maintained.

**Page 4-92, Carter Spit ACEC & Bristol Bay ACEC****Page 4-93, Carter Spit ACEC**

Please see our comments from Chapter Two, concerning the post-planning, post-conveyance additions to the ACECs.

**Page 4-104, Recent Exploration and Development Activities Pebble Copper Area**

Please note that the permitting for the Pebble project and the final (bankable) feasibility study will not be started until 2008.

**Page 4-117, Irreversible and Irretrievable Commitment of Resources, Minerals**

There is a concern that the statement under locatable minerals that “extraction may produce a short-term positive impact to a few residents of the region by providing them with a cash income” is an understatement of the overall benefits of mineral development. Although the development of a specific small mineral deposit (the extent of anticipated development on BLM lands) would be short-lived, it would contribute to the creation of job skills, additional investment in mineral development and contribute to the economy of the State, all of which have longer-term benefits.

***Appendix A*****Wild and Scenic River Eligibility Matrix**

We suggest including a section explaining the column in the spreadsheet entitled Class. We assume that Class refers to Wild, Scenic or Recreational but the footer associated with this column uses letter designations and the column in the table uses numbers. It is unclear as to which number corresponds to which letter. It may also help to include a paragraph that describes what constitutes a Recreational, Scenic, or Wild River.

We suggest including additional information at the bottom of the summary analysis table that describes the relative importance of the numerical values associated with each planning block and attribute. While this information is adequately presented in the text on page A-2 including this in the table allows the table to stand alone if need be.

**Table 1.2. Areas of Critical Environmental Concern Nomination Matrix**

We suggest including a footer that describes the numerical values applied to each attribute for relevance and importance for the various planning blocks. In other words, is a one better than a three? What does a one represent? This information would allow this table to stand alone. A description of the table could also be included in a concluding paragraph on page A-10 to provide further clarification.

***Appendix B: ANILCA Section 810 Analysis of Subsistence Impacts*****Page B-5, 4<sup>th</sup> full paragraph.**

We recommend replacing the first sentence with the following language: “The current amount necessary for subsistence (ANS) determination made by the Alaska Board of Game for moose in Game Management Units (GMUs) in the planning area ranges between 280-390 moose

annually.” The authors suggest that this ANS determination seems low, given the “significant increase in the distribution and population of moose in GMU 17A” and low caribou harvests due to a decline in the Mulchatna Caribou Herd. While it is possible that the ANS findings may need to be revisited, a growth in the moose population resulting in an increasing moose harvest does not necessarily mean that the ANS is inaccurate.

**Page B-5, final paragraph.**

We suggest replacing the first sentence with the following language: “The current amount necessary for subsistence determination made by the Alaska Board of Game for caribou in the GMUs in the Bay planning area (5 AAC 99.025) ranges between 3,600 and 4,800 per year.” The final sentence in this paragraph estimates the unreported harvest of caribou in this area to be between 3,200 and 7,200 caribou annually, but does not indicate the source(s) of information used for this estimate. The source(s) of this unreported harvest estimate should be cited.

***Appendix E***

This appendix of 17b easements is very useful. Is it possible to provide a map depicting these easements in this section, or perhaps refer back to the maps in Chapter 3 that do depict these easements, or as an alternative, move the 17(b) maps to this section?

Thank you for the opportunity to comment. We appreciate the attention BLM has paid to existing State planning documents, regulations, and previously articulated concerns as well as the level of cooperation and coordination extended to the State. Should you have any questions, please do not hesitate to contact me.

Sincerely,

/ss/

Carol Fries  
Large Project Coordinator for BLM Resource Management Plans

cc: Edmund J. Fogels, Acting Deputy Commissioner  
Randy Bates, Director, Office of Project Management and Permitting